

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Thomas Raymond Firriolo,) Case No. 6:18-cv-00335-DCC
)
 Plaintiff,)
)
 v.)
)
 Share Sunbelt Resources, Inc.; Mark)
 Golden; John Horn; Tracy Campbell;)
 Timothy Coggins; Allen Bristow; Ross)
 L. Bowen, Jr.; Trane Corporation)
 Service Company; Directors;)
)
 Defendants.)
)

This matter is before the Court on Plaintiff's Complaint. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On March 6, 2018, the Magistrate Judge issued a Report recommending that Complaint be dismissed without prejudice and without issuance of service of process. ECF No. 10. Plaintiff filed objections to the Report. ECF No. 13.

LEGAL STANDARD

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The

Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

ANALYSIS

The Report recommends that the Complaint be dismissed because this Court does not have subject matter jurisdiction either through diversity or as a result of a federal question. Plaintiff's generally objects to the Magistrate Judge's Report by restating his position that he is entitled to relief. ECF No. 13. He also contends that Defendants engaged in a conspiracy to deprive him of his civil rights in violation of 42 U.S.C. § 1985; however, as explained in the Report, he merely offers conclusory statements without factual or legal support. *Id.* Because Plaintiff filed objections, the Court has conducted a de novo review of the Complaint and agrees with the Magistrate Judge that this Court lacks subject matter jurisdiction over Plaintiff's claims. See *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 89 (1998) (“Dismissal for lack of subject-matter jurisdiction because of the inadequacy of [a] federal claim is proper only when the claim is so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise

completely devoid of merit as not to involve a federal controversy.” (internal quotation marks omitted)).

CONCLUSION

Accordingly, the Court adopts the Report and Recommendation of the Magistrate Judge and overrules Plaintiff’s objections. Plaintiff’s Complaint is **DISMISSED** without prejudice and without issuance of service of process. Plaintiff’s Motion to Transfer [17] is **FOUND as MOOT**.

IT IS SO ORDERED.

s/Donald C. Coggins, Jr.
United States District Judge

December 13, 2018
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.